

Securities and Exchange Commission

§ 200.42

the Commission the inspection of newly registered broker-dealers that have not commenced actual operations within six months of their registration with the Commission; and

(2) To delay until the second six month period from registration with the Commission the inspection of newly registered broker-dealers to determine whether they are in compliance with applicable provisions of the Exchange Act and rules thereunder, other than financial responsibility rules.

(h) Pursuant to Section 36 of the Exchange Act (15 U.S.C. 78mm) to review and, either unconditionally or on specified terms and conditions, grant, or deny exemptions from rule 17a-25 of the Act (§240.17a-25 of this chapter), provided that the Division of Market Regulation is notified of any such granting or denial of an exemption.

(i) With respect to the Investment Advisers Act of 1940 (“Advisers Act”) (15 U.S.C. 80b-1 *et seq.*):

(1) Pursuant to Section 203(h) of the Advisers Act (15 U.S.C.80b-3(h)), to authorize the issuance of orders canceling registration of investment advisers, or applications for registration, if such investment advisers or applicants for registration are no longer in existence or are not engaged in business as investment advisers; and

(2) Pursuant to Rule 204-2(j)(3)(ii) (§275.204-2(j)(3)(ii) of this chapter), to make written demands upon non-resident investment advisers subject to the provisions of such rule to furnish to the Commission true, correct, complete, and current copies of any or all books and records which such non-resident investment advisers are required to make, keep current, or preserve pursuant to any provision of any rule or regulation of the Commission adopted under the Advisers Act, or any part of such books and records which may be specified in any such demand.

(j) Notwithstanding anything in the foregoing, in any case in which the Director of the OCIE believes it appropriate, the Director may submit the matter to the Commission.

[60 FR 39644, Aug. 3, 1995, as amended at 66 FR 35842, July 9, 2001]

Subpart B—Disposition of Commission Business

AUTHORITY: 5 U.S.C. 552b; 15 U.S.C. 78d-1 and 78w.

SOURCE: 42 FR 14692, Mar. 16, 1977, unless otherwise noted.

§ 200.40 Joint disposition of business by Commission meeting.

Any meeting of the Commission that is subject to the provisions of the Government in the Sunshine Act, 5 U.S.C. 552b, shall be held in accordance with subpart I of this part. The Commission's Secretary shall prepare and maintain a Minute Record reflecting the official action taken at such meetings.

[60 FR 17202, Apr. 5, 1995]

§ 200.41 Quorum of the Commission.

A quorum of the Commission shall consist of three members; provided, however, that if the number of Commissioners in office is less than three, a quorum shall consist of the number of members in office; and provided further that on any matter of business as to which the number of members in office, minus the number of members who either have disqualified themselves from consideration of such matter pursuant to §200.60 or are otherwise disqualified from such consideration, is two, two members shall constitute a quorum for purposes of such matter.

[60 FR 17202, Apr. 5, 1995]

§ 200.42 Disposition of business by *seriatim* Commission consideration.

(a) Whenever the Commission's Chairman, or the Commission member designated as duty officer pursuant to §200.43, is of the opinion that joint deliberation among the members of the Commission upon any matter is unnecessary in light of the nature of the matter, impracticable, or contrary to the requirements of agency business, but is of the view that such matter should be the subject of a vote of the Commission, such matter may be disposed of by circulation of any relevant materials concerning the matter among all Commission members. Each participating Commission member